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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/679,093	10/04/2000	Shridhar P. Joshi	47079-00064	1828

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EXAMINER

CAPRON, AARON J

ART UNIT PAPER NUMBER

3714

DATE MAILED: 11/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/679,093

Applicant(s)

JOSHI, SHRIDHAR P.

Examiner

Aaron J. Capron

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26, 29-39, 46-55 and 94-98 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 26, 29-39, 46-55 and 94-98 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

MARK SAGER
PRIMARY EXAMINER

Art Unit: 3714

DETAILED ACTION

This is a response to the Amendment received on September 23, 2002, in which claims 26, 30, 32-33, 37, 46, 49 and 54-55 were amended, claims 94-98 were added, and claims 27-28 were cancelled. Claims 26, 29-39, 46-55 and 94-98 are pending.

Claims 1-25 and 87-93 have been withdrawn from further consideration by the Examiner as being drawn to nonelected invention (Group I), the requirement having been traversed in Paper No. 6, and requirement is made **FINAL**.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 26, 29-36, 39, 46-53 and 94-98 are rejected under 35 U.S.C. 102(e) as being anticipated by Acres (U.S. Patent No. 6,254,483; hereafter "Acres").

Referring to claim 46, Acres discloses a method of operating a gaming machine that includes displaying, on a video display (1:17-19) a plurality of standard game appearance (1:58-2:11); monitoring real time (6:51-54); automatically (abstract-predetermined changes) displaying modified game appearance, the artwork being associated with a holiday (2:46-2:52); randomly selected a plurality of outcomes of the gaming machine in response to the wager amount (slot

Art Unit: 3714

machine). It is inherent that all gambling games have a theme/artwork. Most casinos use equivalent gaming machines, but have different artwork to distinguish themselves from their competitors.

Referring to claims 47, Acres discloses using an external clock in a hub server (Figures 1, 3 and 5, ref 24).

Referring to claim 48, Acres suggests using a clock that is internal to the processor (5:47-50 and abstract with reference to predetermined changes in variable such as time).

Referring to claims 49 and 51, Acres discloses the steps of displaying include the steps of downloading data corresponding to the game artwork (1:33-57).

Referring to claim 50, Acres discloses using steps to download data from a server (Figures 1, 3 and 5, ref 24).

Referring to claims 53, Acres teaches a game machine programmed to alter game display for timed or calendar events such as holidays (Figure 5).

Claims 94-97 correspond in scope to a method set forth for use of the method listed in claims 46-55 and are encompassed by use as set forth in the rejection above.

Claim 98 corresponds in scope to a gaming machine set forth for use of the method listed in claims 46-55 and 94-97 and are encompassed by use as set forth in the rejection above.

Claims 26, 30, 34 and 39 correspond in scope to a method set forth for use of the structure listed in claims 46-55 and are encompassed by use as set forth in the rejection above.

Referring to claim 29, Acres discloses using a video display (abstract), such as a video poker machine.

Art Unit: 3714

Referring to claim 31, Acres discloses changing the audio and appearance of the machine in response to time (3:15-20).

Referring to claims 32 and 33, Acres discloses a gaming machine that includes the visual elements are associated with the plurality of outcomes (status of the player) and the timing of the game (3:15-20).

Referring to claims 35-36, Acres discloses a gaming machine that includes a scheduling/programming for timed events such as one day before a holiday to one day after the holiday (Figure 5).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 37-38 and 54-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acres in view of IGWB New '97 Games (hereafter "IGWB").

Acres disclose using game artwork but does not disclose using animated characters. However, IGWB discloses using character animation to provide enjoyment to the game (Pages 15-16: The paragraph on page 15 starting with "To present slots..." to the fourth full paragraph on page 16) in order for casinos to distinguish themselves from other casinos and to add extra excitement to the game. The two references are analogous since both references refer to gaming

Art Unit: 3714

machines using themes/artwork. One would be motivated to combine the references in order to provide extra enjoyment to Acres game by adding animated characters and thus, attract more players. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the animated characters of Baerlocher into the invention of Acres and Morro in order to enhance player enjoyment.

Referring to claims 54 and 55, Acres in view of IGWB disclose a plurality of modified visual elements (IGWB:page 11: paragraphs1-4) that are player selectable (video poker machines 1:58-2:11) and that are non-selectable (slot machines).

Response to Arguments

Applicant's arguments with respect to claims 26, 29-39, 46-55 and 94-98 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Morro et al (U.S. Patent No. 6,162,121) discloses a central system that can reconfigure a gaming machine's appearance and theme of the game (2:7-36).

Art Unit: 3714

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron J. Capron whose telephone number is (703) 305-3520. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

ajc
November 22, 2002

A handwritten signature in black ink, appearing to read 'MS', with a long horizontal flourish extending to the right.

**MARK SAGER
PRIMARY EXAMINER**